

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>RENE FIGUEROA,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>C.A. No. 22-143 Erie</b>
<b>v.</b>	)	
	)	<b>District Judge Susan Paradise Baxter</b>
<b>SUPERINTENDENT DEREK F.</b>	)	<b>Magistrate Judge Richard A. Lanzillo</b>
<b>OBERLANDER, et al.,</b>	)	
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

Plaintiff Rene Figueroa, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania, initiated this action by filing a *pro se* civil rights complaint against six officials employed at the State Correctional Institution at Forest (“SCI-Forest”): Superintendent Derek F. Oberlander (“Oberlander”), Security Captain Carter (“Carter”), Corrections Officer Morgan (“Morgan”), and three unnamed corrections officers identified as John Does 1, 2, and 3. This matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On October 7, 2022, Plaintiff filed an amended complaint against the same Defendants [ECF No. 19], asserting claims pursuant to 42 U.S.C. § 1983 for violations of his rights under the first, eighth, and fourteenth amendments to the United States Constitution, as well as a civil rights conspiracy claim and state law tort claims of assault, conspiracy, negligence, medical malpractice, and intentional infliction of emotional distress [ECF No. 19]. The claims are based on allegations that one or more of the Defendants caused a heavy metal gate to close on him and

then denied him necessary medical care for the injuries he sustained in the incident.

After Defendants Oberlander, Carter, and Morgan filed a motion to dismiss Plaintiff's amended complaint, this Court issued a Memorandum Order on June 9, 2023 [ECF No. 29] adopting the Report and Recommendation of Chief Magistrate Judge Lanzillo [ECF No. 27] and dismissing with prejudice: (1) all claims for monetary damages against all Defendants in their official capacities; (2) all claims against Defendants Oberlander and Carter; (3) the state law intention infliction of emotional distress claim; (4) the state law assault and battery claim against all Defendants except John Doe 1; and (5) the equal protection claims against all Defendants. All other claims were dismissed without prejudice to Plaintiff's right to file a second amended complaint to clarify such claims.

Plaintiff subsequently filed a second amended complaint ("SAC") on August 3, 2023 [ECF No. 37], against original Defendant Morgan and newly named Defendants Kevin McGuire and William S. Tanner, each of whom is alternatively named as the officer originally identified as "John Doe 1." The SAC contains four counts: Count I asserts an Eighth Amendment claim of excessive use of force; Count II asserts an Eighth Amendment claim of deliberate indifference to serious medical needs; Count III asserts a civil rights conspiracy claim; and Count IV asserts a state law negligence claim.

On September 29, 2023, Defendants filed a partial motion to dismiss [ECF No. 42], seeking dismissal of Counts II and III of the SAC for failure to state claims upon which relief may be granted. The motion was fully briefed by the parties.

On April 18, 2024, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that Defendants' motion to dismiss Counts II and III

of the SAC be granted and that Count IV be dismissed as II and III of Plaintiff's SAC be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B and 1915A(b), based upon Defendants' sovereign immunity. [ECF No. 47]. All such claims are recommended to be dismissed with prejudice. Objections to the R&R were due to be filed by May 6, 2024; however, no objections have been received by the Court.

After *de novo* review of the complaint and documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 10th day of May, 2024;

IT IS HEREBY ORDERED that Defendants' partial motion to dismiss [ECF No. 42] is GRANTED and Counts II and III of Plaintiff's second amended complaint are DISMISSED with prejudice. In addition, Count IV of Plaintiff's second amended complaint is DISMISSED with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). The report and recommendation of Chief Magistrate Judge Lanzillo, issued April 18, 2024 [ECF No. 47], is adopted as the opinion of the court.

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
Chief U.S. Magistrate Judge

all parties of record